

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MALIBU MEDIA, LLC,

Plaintiff,

v.

AMELIA BERKOWITZ,

Defendant.

No.: 1:17-cv-09149-GHW

**ANSWER TO AMENDED COMPLAINT**

Defendant Amelia Berkowitz, through her undersigned counsel, for her Answer to the Amended Complaint dated March 21, 2018 (the “Complaint”) filed by Plaintiff Malibu Media, LLC, states as follows:

**INTRODUCTION**

1. Paragraph 1 purports to state a legal conclusion as to which no response is required. To the extent that any further response is required, Ms. Berkowitz denies the allegations of Paragraph 1.

2. Ms. Berkowitz denies the allegations in Paragraph 2.

3. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 3.

**JURISDICTION AND VENUE**

4. Paragraph 4 sets forth Plaintiff’s jurisdictional allegations that present legal conclusions to which no response is required. To the extent that any further response is required, Ms. Berkowitz denies the allegations in Paragraph 4.

5. Ms. Berkowitz denies the allegations in Paragraph 5.

6. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 6.

7. Ms. Berkowitz admits that she resides in this District. The remaining allegations in Paragraph 7 state a legal conclusion to which no response is required. To the extent that any further response is required, Ms. Berkowitz denies the allegations in Paragraph 7.

### **PARTIES**

8. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 8.

9. Ms. Berkowitz admits the allegations in Paragraph 9.

### **FACTUAL BACKGROUND**

10. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 10.

11. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 11.

12. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 12.

13. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 13.

14. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 14.

15. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 15.

16. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to

the allegations in Paragraph 16.

17. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 17.

18. Ms. Berkowitz denies the allegations in Paragraph 18.

19. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 19.

20. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 20.

21. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 21.

22. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 22.

23. Ms. Berkowitz denies the allegations in Paragraph 23.

24. Ms. Berkowitz denies the allegations in Paragraph 24.

25. Ms. Berkowitz denies the allegations in Paragraph 25.

### **MISCELLANEOUS**

26. Paragraph 26 purports to state a legal conclusion as to which no response is required. To the extent that any further response is required, Ms. Berkowitz denies the allegations of Paragraph 26.

27. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 27.

### **COUNT I** **Direct Infringement Against Defendant**

28. Ms. Berkowitz repeats and incorporates by reference her responses to Paragraphs

1-27.

29. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations in Paragraph 29.

30. Ms. Berkowitz denies the allegations in Paragraph 30.

31. Ms. Berkowitz denies knowledge or information sufficient to form a belief as to the allegations the allegations in Paragraph 31.

32. Ms. Berkowitz denies the allegations in Paragraph 32.

33. Ms. Berkowitz denies the allegations in Paragraph 33.

### **AFFIRMATIVE DEFENSES**

Ms. Berkowitz asserts the following defenses without assuming the burden of proof or any other burden if such burdens would otherwise be on the Plaintiff:

#### **First Affirmative Defense**

The Complaint fails to state a claim upon which relief can be granted.

#### **Second Affirmative Defense**

The purported claims against Ms. Berkowitz are based solely on an alleged tracing of an IP address associated with her residence. Ms. Berkowitz never used BitTorrent, nor did she ever download or distribute any of the films listed in Plaintiff's Exhibit A.

#### **Third Affirmative Defense**

Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

#### **Fourth Affirmative Defense**

Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

#### **Fifth Affirmative Defense**

Plaintiff's claims are barred, in whole or in part, by the doctrine of estoppel.

Sixth Affirmative Defense

Ms. Berkowitz lacks knowledge or information at this time sufficient to form a belief as to whether she may have any additional, as of yet unstated defenses. Ms. Berkowitz reserves the right to assert additional defenses.

**PRAYER FOR RELIEF**

Based upon the foregoing, Ms. Berkowitz respectfully prays that this Court dismiss this action against Ms. Berkowitz in its entirety with prejudice, award Ms. Berkowitz her legal fees and costs, and grant such other and further relief as may be appropriate or that the Court deems just and proper.

Dated: April 24, 2018

Respectfully Submitted,

/s/ Alan S. Goudiss

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